

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6288 of 2005

Between:

M/s Mamta Educational Society, 4-2-6/9, Opp: Rotary Nagar, Wyra Road,
Khammam District, rep. by its President Sri P. Ajay Kumar
S/o P. Nageswara Rao.

..... PETITIONER

AND

- 1 The Assistant P.F. Commissioner, Sub Regional Office, Balasamudram, Warangal, Andhra Pradesh.
- 2 The Regional P.F. Commissioner, Sub Regional Office, Balasamudram, Warangal, Andhra Pradesh.
- 3 The Branch Manager, ING Vysya Bank Limited, 3-1-3, Sundar Talkies Road, Khammam - 507 003.
- 4 The Branch Manager, Andhra Bank Lgtd, Mamata Educational Society

Extension Centre, Rotary Nagar, Khammam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the connected records from the respondents and issue appropriate order or direction, preferably one in the nature of Writ of Mandamus declaring that Impugned Proc.No. AP/WGL/Circle.8/Damages/AP/31347/CA/990, dated 29-10-2004 to the extent of Rs. 5,37,854-levied U/s 14-B of the Act for the period from 4/2000 to 7/2001 as illegal , arbitrary and against the principles of natural justice.

Counsel for the Petitioner:MR.N.VENKATARAMA REDDY

Counsel for the Respondent Nos.1 & 2: M/SB.KAVITA YADAV

The Court made the following :

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the impugned order dated 29.10.2004 as arbitrary and illegal.

Heard the learned Counsel for both parties and perused the material on record.

Under the impugned order dated 29.10.2004, the petitioner was directed to remit a sum of Rs.1,79,636/-towards interest under Section 7-Q and a sum of Rs.5,37,854/- towards damages under Section 14-B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short, 'the Act'), for the alleged belated remittance of P.F. dues. It is not in dispute that against the order passed under Section 14B of the Act, a remedy of Appeal is provided under Section 7-I of the Act. So far as the interest claimed under Section 7-Q of the Act is concerned, the learned counsel for the petitioner has brought to my notice that a Division Bench of this Court in W.P.No.16262 of 2002 while considering an identical question, disposed of the writ petition granting liberty to the petitioner to take up the question of legality and validity of interest under Section 7Q of the Act before the authority in the appeal already filed by the petitioner, holding that the Appellate Authority while considering the appeal will also examine the legality and validity of the interest under Section 7Q of the Act.

In the circumstances, the writ petition is disposed of granting leave and liberty to the petitioner to work out the remedy of Appeal under Section 7-I of the Act. If any such appeal is preferred within four weeks from today, the same shall be entertained and appropriate orders be passed. The petitioner is also granted liberty to take up the question of legality and validity of interest under Section 7-Q of the Act in such Appeal, in which event the Appellate Authority shall also examine the legality and

validity of the interest under Section 7Q of the Act while considering the Appeal.

Pending disposal of the said appeal, there shall be interim stay of further proceedings in pursuance of the impugned order dated 29.10.2004, subject to the condition of the petitioner depositing 50% of the amount, within six weeks from today.

With the above direction, the Writ Petition is disposed of.

G.ROHINI, J

Dt: 28.03.2005

Note: Office to furnish C.C by tomorrow

(b.o)

bsv

To

- 1 The Assistant P.F. Commissioner, Sub Regional Office, Balasamudram, Warangal, Andhra Pradesh.
- 2 The Regional P.F. Commissioner, Sub Regional Office, Balasamudram, Warangal, Andhra Pradesh.
- 3 The Branch Manager, ING Vysya Bank Limited, 3-1-3, Sundar Talkies Road, Khammam - 507 003.
- 4 The Branch Manager, Andhra Bank Lgtd, Mamata Educational Society

Extension Centre, Rotary Nagar, Khammam.

5. Two CD copies